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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,117	03/12/2004	Walter Harwood	225965	9091
23460	7590	01/11/2006	EXAMINER	
LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6780			ESTRADA, ANGEL R	
			ART UNIT	PAPER NUMBER
			2831	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/800,117	<b>Applicant(s)</b> HARWOOD, WALTER	
	<b>Examiner</b> Angel R. Estrada	<b>Art Unit</b> 2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 and 27-33 is/are allowed.
- 6) ☒ Claim(s) 11, 12, 14, 17-19, 21-23, 25 and 26 is/are rejected.
- 7) ☒ Claim(s) 13, 15, 16, 20 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 11, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frazier et al (US 6,598,949, hereinafter Frazier).

Regarding claim 11, Frazier discloses a pedestal enclosure (10) for electronic components, the enclosure (10) comprising: a base section (14) having a generally rectangular configuration (see figure 1) and having a plurality of longitudinally extending channels formed therein (see figure 1) such that the base section is substantially self-supporting in the ground; a cover (12) having a generally cylindrical configuration (see figure 1), the cover (12) being engageable with a cylindrical neck (64 or see figure 1) on

the base section (14) so as to define an interior space (see figure 1); and a bracket system (30) supported on the base section (14) and arranged in the interior space (see figure 1), wherein the base section (14) comprises front and rear housing sections (60,62) that can be selectively assembled together and split apart without removal of the bracket system (see figure 1); but Frazier lacks the cover having a generally circular cross sectional shape. It would have been an obvious matter of design choice to change the shape of the cover to having a circular cross sectional shape since such a modification would have involved a mere change in the shape of a component. Where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular shape, a change of shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Regarding claim 12, Frazier discloses the pedestal enclosure (10) further including a mounting arrangement (see figure 1) for releasably mounting the bracket system (30) to the base section (14), the mounting arrangement including a mounting part (54,56) supported at the lower end of each of a pair of legs (52) of the bracket system (30) and a channel section (71, 72) supported on the base section (14), each of the mounting parts being configured and arranged to be received in and engage a respective one of the channel sections (see figure 1); but Frazier lacks the channel sections being located on the bracket and the mounting part being located on the base. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the bracket with channel sections and the base section

with the mounting part, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Regarding claim 14, Frazier discloses the pedestal enclosure (10) further including an alignment brace (114) arranged on opposing sides of a leading edge of one of the front or rear housing sections (60,62) and defining a generally L-shaped surface (see figure 1) that engages opposing sides of a leading edge of the other of the front or rear housing sections (60, 62) when the front and rear housing sections are assembled together (see figure 3).

2. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frazier et al (US 6,598,949, hereinafter Frazier) in view of Gretz (US 6,752,362).

Regarding claim 17, Frazier discloses the claimed invention except for the base section including a plurality of knockouts. Gretz teaches a pedestal (10) having a base section including a plurality of knockouts (64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make Frazier's base section with a plurality of knockouts as taught by Gretz to provide means for creating an opening whenever is necessary.

3. Claims 18, 19, 21, 22, 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frazier et al (US 6,598,949, hereinafter Frazier) in view of Leschinger (US 6,252,166).

Regarding claim 18, Frazier discloses a pedestal enclosure (10) for electronic components, the enclosure (10) comprising: a base section (14); a cover (12) engageable with the base section so as to define an interior space (see figure 1), a bracket system (30) supported on the base section (14) and arranged in the interior space (see figure 1), the bracket system (12) including a backboard (48) supported by a pair of legs (50,52), a plurality of wire retaining guides (see figure 1) being integrally connected to the backboard (48); and a grounding bar (32); but Frazier lacks the grounding bar including a pair of legs configured for snap engagement with corresponding slots in the legs of the bracket system. Leschinger teaches a pedestal (see figure 1) having a grounding bar (16) including a pair of legs (20) that can be configured for snap engagement with corresponding slots in the legs of the bracket system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make Frazier's grounding bar with a pair of legs that can be configured for snap engagement with corresponding slots in the legs of the bracket system as taught by Leschinger to provide means for mounting the grounding bar to the bracket system without using any tools.

Note: it has been held that the recitation that an element is "configured" to perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re. Hutchison, 69 USPQ 138. Therefore this limitation "configured for snap engagement with corresponding slots in the legs of the bracket system" has not been giving any patentable weight.

Regarding claim 19, the modified Frazier discloses the pedestal enclosure (10) further including a mounting arrangement (see figure 1) for releasably mounting the bracket system (30) to the base section (14), the mounting arrangement including a mounting part (54,56) supported at the lower end of each of a pair of legs (52) of the bracket system (30) and a channel section (71, 72) supported on the base section (14), each of the mounting parts being configured and arranged to be received in and engage a respective one of the channel sections (see figure 1); but Frazier lacks the channel sections being located on the bracket and the mounting part being located on the base. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the bracket with channel sections and the base section with the mounting part, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Regarding claim 21, Frazier discloses the pedestal enclosure (10) wherein the base section (14) comprises front and rear housing sections (60,62) that can be selectively assembled together and split apart (see figure 1).

Regarding claim 22, Frazier discloses the pedestal enclosure (10) further including an alignment brace (114) arranged on opposing sides of a leading edge of one of the front or rear housing sections (60,62) and defining a generally L-shaped surface (see figure 1) that engages opposing sides of a leading edge of the other of the front or rear housing sections (60, 62) when the front and rear housing sections are assembled together (see figure 3).

Regarding claim 23, Frazier discloses the pedestal enclosure (10) further including a wire service channel (102) having a flange for snap engagement with a plurality of tabs (108) on an inside surface of the base section (see figure 4).

Regarding claim 26, Frazier discloses the pedestal enclosure (10) wherein each of the legs (50, 54) includes a lance (56, 54) for snap engagement with a corresponding opening in the respective slot (72, 74).

4. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frazier et al (US 6,598,949, hereinafter Frazier) in view of Leschinger (US 6,252,166) as applied in claim 18, and further in view of Gretz (US 6,752,362).

Regarding claim 25, the modified Frazier discloses the claimed invention except for the base section including a plurality of knockouts. Gretz teaches a pedestal (10) having a base section including a plurality of knockouts (64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make Frazier's base section with a plurality of knockouts as taught by Gretz to provide means for creating an opening whenever is necessary.

***Allowable Subject Matter***

5. Claims 1-10 and 27-33 are allowed.

The following is an examiner's statement of reasons for allowance: The primary reasons for the indication of the allowability of claims 1-10 and 27-33 are:



Regarding claims 1-10 the prior art does not teach or fairly suggest in combination with the other claimed limitations a pedestal having a lock mechanism including a latch supported in a lock housing for movement between locked and unlocked positions; and a first lock receptacle arranged on the base section for receiving the lock mechanism when the cover is engaged with the base section and the lock mechanism is arranged near the bottom of the cover and a second lock receptacle arranged on the bracket system for receiving the lock mechanism when the cover is engaged with the base section and the lock mechanism is arranged near the top of the cover; each of the first and second lock receptacles defining a pocket for supporting the lock housing and being engageable with the latch when the latch is the locked position so as to prevent disengagement of the cover from the base section.

Regarding claims 27-33 the prior art does not teach or fairly suggest in combination with the other claimed limitations a pedestal having a splice bar pivotably supported between the legs of the bracket system for movement between an locked position wherein a hook at each end of the splice bar engages a respective one of the legs of the bracket system and an unlocked position wherein the splice bar is disengaged from the legs of the bracket system.

These limitations are found in claims 1-10 and 27-33, and are neither disclosed nor taught by the prior art of record, alone or in combination.

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6. Claims 13, 15, 16, 20 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The primary reasons for the indication of the allowability of claims 13, 15, 16, 20 and 24 are:

Regarding claim 13, the prior art does not teach or fairly suggest in combination with the other claimed limitations a pedestal having a mounting arrangement including a manually releasable locking mechanism including a window in each of the channel sections and a flexible spring tab supported on each of the mounting parts, each spring tab being engageable with one of the channel sections when the mounting parts are received in the channel sections.

Regarding claim 15, the prior art does not teach or fairly suggest in combination with the other claimed limitations the pedestal enclosure further including a detachable wire service channel for receiving one or more wires having a flange for snap engagement with a plurality of tabs on an inside surface of the base section

Regarding claim 16, the prior art does not teach or fairly suggest in combination with the other claimed features a pedestal including a splice bar pivotably supported between a pair of legs of the bracket system for movement between an locked position wherein a hook at each end of the splice bar engages a respective one of the legs of the bracket system and an unlocked position wherein the splice bar is disengaged from the legs of the bracket system.

Regarding claim 20, the prior art does not teach or fairly suggest in combination with the other claimed features a pedestal having a mounting arrangement including a manually releasable locking mechanism including a window in each of the channel sections and a flexible spring tab supported on each of the mounting parts, each spring tab being engageable with one of the channel sections when the mounting parts are received in the channel sections.

Regarding claim 24, the prior art does not teach or fairly suggest in combination with the other claimed features a pedestal including a splice bar pivotably supported between the legs of the bracket system for movement between an locked position wherein a hook at each end of the splice bar engages a respective one of the legs of the bracket system and an unlocked position wherein the splice bar is disengaged from the legs of the bracket system.

These limitations are found in claims 13, 15, 16, 20 and 24, and are neither disclosed nor taught by the prior art of record, alone or in combination.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 11 and 18 have been considered but are moot in view of the new ground(s) of rejection.

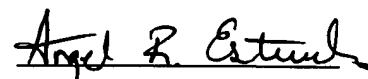
8. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 9, 2006

  
Angel R. Estrada  
Patent Examiner  
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